Definition of the words "actual purchase," contained in sec. 7 of the Church Temporalities Act.

The court in *banc*, after verdict and exception taken, amended the record in ejectment, by adding the words "lands and premises" to the property sued for.—*Ridout* v. *Harris*, 16 U.C. C.P. 88.

INSURANCE — ACCOUNT OF LOSS — WAIVER — MISREPRESENTATION—RIGHT TO RECOVER BACK PREMIUM.—The condition of a Mutual Insurance policy on goods required the insured, in case of loss, forthwith to give notice, and within thirty days after deliver a particular account of such loss signed with his hand, and verified by his oath, also, if required, by his books of account and other proper vouchers. The account given consisted of his affidavit stating that the premises were occupied by him as a general merchant's store: that the whole value of the goods and merchandise destroyed was $800; and some accounts were attached of goods sold to him, shewing however only charges of "goods per invoice."

Held, clearly no compliance with the condition.

The defendant's secretary wrote to the plaintiff, after the fire, that the defendants declined paying his claim in consequence of the facts not being stated in his application for the policy; and the plaintiff relied on this as a waiver of the account. *Held*, that such waiver should have been specially replied, and *semble*, that if it had been, the latter was not evidence of it.

In this application the plaintiff untruly represented the building as furnished with a brick chimney. *Held*, that, on this ground, the policy never attached, and that the plaintiff therefore might recover back his premium.—*Mulvey* v. *The Gore District Mutual Fire Assurance Company*, 25, U. C. Q. B. 424.

RAILWAY TRAVELLING—NEGLIGENCE.—1. The ticket of a person in charge of stock on a railroad car was endorsed as follows:—"The person accepting this free ticket assumes all risks of accidents, and expressly agrees that the Company shall not be liable, under any circumstances, whether of negligence by its agents or otherwise, for any injury to the person, or for any loss or injury to the personal property of the party using this ticket."

Held, that it did not excuse the company for *negligence*.

2. Placing a platform between two tracks, leaving but a narrow space, is *negligence*.—*Penn. R. R. Co.* v. *Henderson*, Phil Leg. Int.

INSURANCE.—A covenant limiting insurance to two-thirds of value is a fundamental condition. Its violation is fatal, and forfeiture the necessary penalty.—*Mitchell, jor use*, v. *Lycoming Mutual Insurance Co.*, *Ib.*

UPPER CANADA REPORTS.

QUEEN'S BENCH.

(*Reported by* C. ROBINSON, Esq., Q.C., *Reporter to the Court.*)

BLAIKIE AND THE CORPORATION OF THE TOWNSHIP OF HAMILTON.

By-law—Remuneration to Councillors—C. S. U. C. ch. 54, sec. 269.

A by-law directing payment of $30 to each member of a township council, "being $20 for services as councillor, and $10 for services for letting and superintending repairs of roads—*Held* bad as not within the power given by the act, C. S. U. C. ch. 54, sec. 269.

[T. T., Q. B., 1866.]

The Corporation of the Township of Hamilton, on the 8th of January, 1866, passed a by-law, entitled "By-law to provide for the payment of councillors in the township of Hamilton, for the year 1865," as follows:

"Whereas it is necessary to provide for the payment of councillors for the past year,—Be it therefore enacted, and it is hereby enacted, by the Municipal Corporation of the township of Hamilton, that an order on the treasurer be granted to each councillor for the sum of thirty dollars, being twenty dollars for services as councillor, and ten dollars for services for letting and superintending repairs of roads."

Hector Cameron, in Easter term last, obtained a rule *nisi* to quash this by-law, on the ground that the township council had no authority to pass it, and that it provides for the payment of illegal and improper charges to the members of the council, and for services for which by law they are not entitled to any remuneration.

C. S. Patterson in this term, shewed cause, contending that the by-law was authorized under the Municipal Act, Consol. Stat. U. C. ch. 54, sec. 269, which enacts that "The council of every township and county may pass by-laws for paying the members of the council for their attendance in council, at a rate not exceeding one dollar and fifty cents per diem:" that all reasonable intendments should be made in favor of the by-law; and that for all that appeared the sums mentioned in it were in fact within the clause, and intended as compensation to the members for their attendance in council, at all events as to the twenty dollars.

Hector Cameron, contra, was not called upon.

DRAPER, C. J.—I am of opinion that this by-law is clearly bad, and I think it better that we should not seem to intimate any doubt in its favor by delaying to make the rule absolute. Such a by-law should shew upon its face that it is within the statutory power. Here it does not appear that the money directed to be paid is for the attendance of the members in council, nor if so at what rate; and as to the ten dollars, it is clearly intended as a remuneration not authorized.

HAGARTY, J. concurred.

Rule absolute.